[ORIGINAL CIVIL JURISDICTION]

In the Matter of the Estate of LO TSIT PANG otherwise called JACKAYOUNG deceased.

LEONG SOON KENG (w)

vs.

LEE KENG TUCK (w)

[SINGAPORE SUIT No. 539 OF 1932.]

Practice—Staying Proceedings—Action for Declaration of Status and Motion for Revocation of Letters of Administration followed by Administration Action—Costs of former proceedings raising same issues not paid —Multiplicity of Actions.

The Defendant was the widow and administratrix of a Chinese intestate. The Plaintiff first sued the Defendant personally for a declaration that she was a secondary wife of the intestate but the action was dismissed with costs on an objection as to jurisdiction. The Plaintiff then applied for revocation of the Defendant's Letters of Administration on the ground that the Plaintiff was a secondary wife of the intestate but proceedings thereon were stayed until the costs of the first action were paid. The Plaintiff then commenced the present action against the Defendant as such administratrix claiming as a lawful widow of the intestate for administration of his estate.

Held, that the present action ought to be stayed until the Plaintiff had obtained a decision upon her previous application for revocation of the Letters of Administration.

This was a Motion on behalf of the Defendant for a stay of all further proceedings in this action on the ground that the action was vexatious and an abuse of the process of the Court and tended to a multiplicity of legal proceedings. The evidence in support of the Motion showed that the deceased Lo Tsit Pang had died in 1922 and the Defendant had obtained a grant of Letters of Administration to his estate as his lawful widow. In September 1931 the Plaintiff sued the Defendant personally for a declaration that she (the Plaintiff) was a lawful secondary wife of the deceased, and one of the grounds of Defence raised was that the Court had no jurisdiction to entertain the suit. The action came on for trial before Sproule, Acting Chief Justice, who dismissed it with costs on this ground. In January 1932 the Defendant applied by Motion in the Probate proceedings in which the Plaintiff had obtained her grant of Letters of Administration to the deceased's estate for revocation of such grant and for issue of a fresh grant to the Defendant and herself jointly on the ground that she was a secondary wife of the deceased. Upon this application an issue was ordered to be tried as to whether or not the Plaintiff was a secondary wife of the deceased, but before the issue was tried the Plaintiff obtained an Order staying all further proceedings thereon until the Defendant had paid the Plaintiff her taxed costs in the first action. Without paying such costs or otherwise proceeding with the trial of the issue the Plaintiff then commenced the present action claiming against the Defendant as administratrix of the deceased's estate for administration of the estate on the ground that she (the Plaintiff) was a widow and beneficiary of the deceased. The Defendant, after delivery of the Statement of Claim, applied for a stay of proceedings as aforesaid, and the Motion was heard before Terrell, J. on the 8th August 1932.

Koek for Defendant (applicant).

Laycock for Plaintiff (respondent).

TERRELL, J. in making the Order said he was satisfied that the issue raised in the present action was substantially the same as the issue raised in the first action for a declaration and as the issue directed in the Probate proceedings. In each case the Plaintiff claimed by virtue of her alleged title as a secondary wife of the deceased. As the Plaintiff was at liberty to proceed to trial on the issue in the Probate proceedings by paying the costs of the first action, he considered that she ought to obtain a decision upon such issue before proceeding with the present action which was subsequent in time. He accordingly ordered all further proceedings in this action to be stayed pending the hearing of and decision upon the issue directed in the Probate proceedings, and gave the Defendant her costs of the application.

Order accordingly.

Solicitors for the Plaintiff—

Braddell Brothers.

Solicitors for the Defendant—

Chan & Eber.